IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.3141 OF 2007

Sudhakar Sakharam Khanolkar ..Petitioner.
Vs.
Om Shri Shanti Kunj Co-op.
Housing Society Ltd. & Ors. ..Respondents.

Mr.R.S.Ghadge i/b A.S.Desai, advs. for the Petitioner.

Mr.M.G.Patil i/b N.M.Bhadrashete, advs. for the Respondent Nos.1 to 5.

CORAM : J.H.BHATIA, J.
DATE : JULY 20, 2007.

ORAL JUDGMENT:

1. Rule. Rule made returnable forthwith and with consent of the learned counsel for the parties, petition is taken up for final hearing forthwith.

2. Heard the learned counsel for the petitioner and the learned counsel for the respondent no.1-society.

3. It appears that the father of the petitioner was allotted one room in the building by MHADA. After death of father, mother of the petitioner being nominee was treated as a member of the society of the flat holders. In between, Board of Administrators was appointed and the share certificate was issued in the name of the petitioner, being son of the deceased. The name of the petitioner was also included in the initial

voters' list prepared by Board of Administrators. However, later on, Board of Administrators was desolved and Returning Officer was appointed to hold the election of the society. Returning officer deleted the name of petitioner from the voters list. Due to this the petitioner filed election dispute, which was dismissed. Thereafter, he preferred Appeal No.38 of 2006 before the Co-operative Appellate Court. Appeal also came to be dismissed. He has challenged the findings of the Courts below in the present petition. According to him, he is entitled to be a member and a voter in the said election.

3. Admittedly, room was allotted to the father of the petitioner and his mother, being the nominee, is treated as member of the society after the death of his father. It also appears that there is a dispute between the petitioner, his mother and brothers about the said property and about the same Suit No.5079 of 1992 is pending before the City Civil Court. Pending the decision in the suit, the society is justified in treating the nominee of the deceased as a member in view of Section 30(1) Maharashtra Co-operative Societies Act. Mother of the petitioner being the nominee is entitled to be a member and a voter. The petitioner is not a member of the society at present and, therefore, he also can not be a voter. It goes

without saying that the society has to abide by the decision, which may be finally given in suit no.5079 of 1992. Anyhow, at present there is no substance in the petition.

4. In the result, petition stands dismissed Rule discharged.

[J.H.BHATIA, J.]